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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
New York, 10-21 August 1992

FINAL DRAFT RULES OF PROCEDURE OF THE LEGAL AND TECHNICAL COMMISSION

Working paper by the Secretariat

I. SESSIONS

Rule 1* (1) 1/ 2/

Frequency of sessions

The Legal and Technical Commission (hereinafter referred to as "the Commission") shall meet as often as required for the efficient exercise of its functions, taking into account, among others, the financial considerations that may influence the frequency of its meetings. 3/

1/ Rules with asterisks (*) have been provisionally adopted.

2/ The number in parentheses indicates the place of the rule in document LOS/PCN/WP.31/Rev.1.

3/ Based on article 163 (12).

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Rule 2* (2)

Place of session

1. The Commission shall normally meet at the seat of the Authority. 4/

2. Whenever exceptional circumstances warrant meetings of the Commission elsewhere or the business of the Commission so requires, a decision for holding such meetings and also concerning the venue and duration of such meetings shall be taken by the Council upon the recommendation of the Commission, in consultation with the Secretary-General, taking into account possible financial implications of such meetings.

Rule 3* (3)

Convening of session

Taking into account the provisions of rule 1, the Commission shall be convened at the request of:

(a) The Council;

(b) The majority of the members of the Commission;

(c) The Chairman of the Commission; or

(d) The Secretary-General.

Rule 4* (4)

Notification of the members

The Secretary-General shall notify the members of the Commission and the members and observers of the Authority as early as possible of the date and duration of each session.

Rule 5* (5*)

Temporary adjournment of session

The Commission may decide to adjourn any session temporarily and resume it at a later date.

4/ Article 163 (12).

II. AGENDA

Rule 6* (6)

Communication of the provisional agenda

The provisional agenda for each session shall be drawn up by the Secretary-General and communicated to the members of the Commission and the members and observers of the Authority as early as possible but at least twenty-one days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members of the Commission and to the members and observers of the Authority sufficiently in advance of the session.

Rule 7* (7)

Drawing up of the provisional agenda

The provisional agenda of each session shall include:

(a) All items proposed by the Council;

(b) All items proposed by the Commission;

(c) All items proposed by the Chairman of the Commission;

(d) All items proposed by any member of the Commission;

(e) All items proposed by the Secretary-General.

Rule 8* (8)

Adoption of the agenda

At the beginning of each session, the Commission shall, on the basis of the provisional agenda, adopt its agenda for the session, which shall, in any case, include all items proposed by the Council. The Commission may, if necessary, make additions to the agenda at any time during a session, but no item included in the agenda shall be deleted.

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III. ELECTIONS AND FUNCTIONS

Rule 9* (9*)

Elections

The members of the Commission shall be elected by the Council in accordance with its rules of procedure. 5/

Rule 10* (11)

Incompatible activities and confidentiality

Members of the Commission shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject their responsibilities to the Commission, they shall not disclose, even the termination of their functions, any industrial secret, proprietary d which are transferred to the Authority in accordance with annex III, article 14, of the United Nations Convention on the Law of the Sea, or a other confidential information coming to their knowledge by reason of th duties for the Authority. 6/

Rule 11* (11*)

Exercise of functions

The Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt. 7/

Rule 12* (12)

Rules and regulations of the Commission

The Commission shall formulate and submit to the Council for approva such rules and regulations as may be necessary for the efficient conduct the Commission's functions. 8/

5/ Article 163 (2).

6/ Article 163 (8).

7/ Article 163 (9).

8/ Article 163 (10).

Rule 13* (13)

Consultations

In the exercise of its functions, the Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter of such consultation. 9/

IV. OFFICERS

Rule 14 (14)

Election of Chairman and the Bureau

1. Each year at the first session, the Commission shall elect a Chairman and four [Vice-Chairmen] from among its members. In electing the officers, due regard shall be paid to the principle of equitable geographical representation.

2. The Chairman of the previous year shall preside until the Commission has elected a Chairman for the next year.

Rule 15* (15*)

Rapporteur

The Commission may appoint, if necessary, any of its members as Rapporteur for any particular question.

Rule 16* (16)

Acting Chairman

1. If the Chairman is absent during a meeting or any part thereof, he shall designate one of the Vice-Chairmen to take his place.

2. If the Chairman ceases to hold office pursuant to rule 18, the remaining members of the Bureau shall designate one of the Vice-Chairmen to take his place until the election of a new Chairman.

9/ Article 163 (13).

Rule 17* (17*)

Powers of the Acting Chairman

A Vice-Chairman acting as Chairman shall have the same powers and duties as the Chairman.

Rule 18* (18*)

Replacement of the Chairman or a Vice-Chairman

If the Chairman or a Vice-Chairman ceases to be able to carry out his functions or ceases to be a member of the Commission, he shall cease to hold such office and a new Chairman or Vice-Chairman shall be elected for the unexpired term.

Rule 19* (19*)

Functions of the Chairman

The Chairman shall preside over the sessions of the Commission and under the authority of the Commission shall represent it in its capacity as an organ of the Council.

Rule 20* (20*)

Exercise of the Chairman's functions

The Chairman, in the exercise of his functions, remains under the authority of the Commission.

V. SECRETARIAT

Rule 21* (21)

Duties of the Secretary-General

1. The Secretary-General shall act in that capacity in all meetings of the Commission. He may designate a member of the Secretariat to act as his representative. He shall perform such other functions as are assigned to him by the Commission. 10/

10/ Article 166 (3).

2. The Secretary-General shall provide and direct the staff required by the Commission, taking into account to the greatest extent possible the requirements of economy and efficiency, and be responsible for all the arrangements that may be necessary for its meetings.

3. The Secretary-General shall keep the members of the Commission informed of any questions that may be brought before the Commission for consideration.

4. The Secretary-General shall provide to the Commission, at its request, reports on questions specified by the Commission.

Rule 22*

Estimate of expenditures

The Secretary-General shall prepare and provide to the members of the Commission, as early as possible, a report on the estimated costs involved, as well as on the administrative and budgetary implications of any recommendation or proposal before the Commission. In adopting any such recommendation or proposal the Commission shall take into account the report of the Secretary-General.

Rule 23* (22*)

Duties of the Secretariat

The Secretariat shall receive, translate, reproduce and distribute recommendations, reports and other documents of the Commission, interpret speeches made at the meetings, prepare and circulate the records of the session; have custody and proper preservation of the documents in the archives of the Commission; and, generally, perform all other work which the Commission may require.

VI. CONDUCT OF BUSINESS

Rule 24* (23*)

Quorum

A majority of the members of the Commission shall constitute a quorum.

Rule 25* (24*)

Powers of the Chairman

In addition to exercising the powers conferred upon him elsewhere in these rules, the Chairman shall declare the opening and closing of each meeting of the Commission, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. He shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Commission and over the maintenance of order at its meetings. The Chairman may, in the course of the discussion of an item, propose to the Commission the limitation of time to be allowed to speakers, the limitation of the number of times each member may speak on any question, the closure of the list of speakers or the closure of the debate. He may also propose the suspension or the adjournment of the meeting or of the debate on the question under discussion.

Rule 26* (25*)

Speeches

No member may address the Commission without having previously obtained the permission of the Chairman. The Chairman shall call upon speakers in the order in which they signify their desire to speak. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 27* (26*)

Statements by the Secretariat

The Secretary-General, or a member of the Secretariat designated by him as his representative, may at any time make either oral or written statements to the Commission concerning any questions under consideration by it.

Rule 28* (27*)

Points of order

During the discussion of any matter, a member may rise to a point of order, and the point of order shall be immediately decided by the Chairman in accordance with the rules of procedure. A member may appeal against the ruling of the Chairman. The appeal shall be immediately put to the vote, and the Chairman's ruling shall stand unless overruled by a majority of the members present and voting. A member rising to a point of order may not speak on the substance of the matter under discussion.

Rule 29* (28*)

Time-limit on speeches

The Commission may limit the time to be allowed to each speaker and the number of times each member may speak on any question. Before a decision is taken, two members may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a member exceeds his allocated time, the Chairman shall call him to order without delay.

Rule 30* (29*)

Closing of list of speakers

During the course of a debate, the Chairman may announce the list of speakers and, with the consent of the Commission, declare the list closed. The Chairman may, however, accord the right of reply to any member if a speech delivered after he has declared the list closed makes this desirable.

Rule 31* (30*)

Adjournment of debate

During the discussion of any matter, a member may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two members may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The Chairman may limit the time to be allowed to speakers under this rule.

Rule 32* (31*)

Closure of debate

A member may at any time move the closure of the debate on the question under discussion, whether or not any other member has signified his wish to speak. Permission to speak on the motion shall be accorded only to two members opposing the closure, after which the motion shall be immediately put to the vote. If the Commission is in favour of the closure, the Chairman shall declare the closure of the debate. The Chairman may limit the time to be allowed to members under this rule.

Rule 33* (32*)

Suspension or adjournment of the meeting

During the discussion of any matter, a member may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The Chairman may limit the time to be allowed to the speaker moving the suspension or adjournment of the meeting.

Rule 34* (33*)

Order of procedural motions

Subject to rule 28, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the item under discussion;

(d) To close the debate on the item under discussion.

Rule 35* (34*)

Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the members of the Commission. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Commission unless copies of it have been circulated to all members not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Rule 36* (35*)

Decision on competence

Subject to rule 34, any motion calling for a decision on the competence of the Commission to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question.

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Rule 37* (36*)

Withdrawal of proposals and motions

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that it has not been amended. A proposal or a motion thus withdrawn may be reintroduced by another member.

Rule 38 (37)

Reconsideration of proposals

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the Commission, by a two-thirds majority of the members present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

VII. DECISION-MAKING

Rule 39* (38*)

Voting rights

Each member of the Commission shall have one vote. 11/

Rule 40* (39*)

Decisions on questions of procedure

1. Decisions on questions of procedure shall be taken by a majority of the members present and voting. 12/

2. If the question arises as to whether a matter is one of procedure or of substance, the Chairman shall rule on the question. Any appeal against this ruling shall be immediately put to the vote and the Chairman's ruling shall stand unless the appeal is approved by a majority of the members present and voting.

11/ Article 161 (7).

12/ Article 161 (8) (a).

Rule 41 (40)

Decisions on questions of substance

1. Except as otherwise provided in these rules, decisions on questions of substance shall be taken by a two-thirds majority of the members present and voting. 13/

2. However, before a matter of substance is put to the vote, the Commission shall make every effort to reach agreement on such matters by the way of consensus. 14/

3. For the purpose of this rule, "consensus" means the absence of any formal objection.

Rule 42* (41*)

Meaning of the phrase "members present and voting"

For the purposes of these rules, the phrase "members present and voting" means members present and casting an affirmative or negative vote. Members who abstain from voting shall be considered as not voting.

Rule 43* (42)

Recommendations to the Council

Recommendations to the Council shall, wherever necessary, be accompanied by a summary on the divergencies of opinion in the Commission. 15/

13/ In the Chairman's statement (LOS/PCN/L.27/Rev.1), it was observed that: "In view of the close interrelation of financial aspects in the different rules of procedure to be prepared for the organs of the Authority, a certain trend developed at this session to consider these matters in their entirety at an appropriate stage". Decision-making in the Legal and Technical Commission with respect to financial and budgetary matters can also be considered at that stage.

14/ Since the Commission will be a fairly small body holding frequent meetings, detailed rules on a mechanism for achieving consensus have not been provided. This provision is meant to reflect the spirit of consensus which will guide the Commission's deliberations.

15/ Article 163 (11).

Rule 44* (43*)

Method of voting

1. The Commission shall, in the absence of mechanical means for voting, vote by show of hands, but any member may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the members participating in that session, beginning with the member whose name is drawn by lot by the Chairman. The name of each member shall be called in any roll-call, and the member shall reply "yes" or "no" or "abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the members.

2. When the Commission votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll-call vote. Any member may request a recorded vote. In the case of a recorded vote, the Commission shall, unless a member requests otherwise, dispense with the procedure of calling out the names of the members; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Rule 45* (44*)

Conduct during voting

After the Chairman has announced the beginning of voting, no member shall interrupt the voting, except on a point of order in connection with the actual process of the voting.

Rule 46* (45*)

Explanation of vote

Members may make brief statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The member sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Rule 47* (46*)

Division of proposals and amendments

A member may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal

or of the amendments which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendments have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 48* (47*)

Order of voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

Rule 49* (48*)

Order of voting on proposals

If two or more proposals relate to the same question, the Commission shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Commission may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 50* (49*)

Elections

All elections shall be held by secret ballot unless otherwise decided by the Commission.

Rule 51* (50*)

Restricted balloting for one elective place

1. When only one person is to be elected and no candidate obtains in the first ballot the votes of a majority of the members present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the Chairman shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 52* (51*)

Restricted balloting for two or more elective places

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such majority is less than the number of persons or members to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible member. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Rule 53* (52*)

Equally divided votes on a question of procedure

If a vote is equally divided on a question of procedure, a second vote shall be taken at a subsequent meeting which shall be held within forty-eight hours of the first vote, and it shall be expressly mentioned in the agenda that a second vote will be taken on the matter in question. If this vote also results in equality, the proposal shall be regarded as rejected.

VIII. CONSIDERATION OF PLANS OF WORK

Rule 54

Consideration of plans of work

The Commission shall consider applications for the approval of plans of work in accordance with the Regulations on Prospecting, Exploration and Exploitation of Polymetallic Nodules in the Area.

IX. PARTICIPATION BY NON-MEMBERS OF THE COMMISSION

Rule 55* (53)

Participation by members of the Authority and entities carrying out activities in the Area

1. Any member of the Authority may send a representative to attend a meeting of the Commission when a request is made by such member and when a matter particularly affecting it is under consideration.

2. For the purpose of facilitating the work of the Commission, and upon the invitation of the Chairman, such representative shall be allowed to express his position on any such matter being considered by the Commission.

3. The Commission may invite any State or entity carrying out activities in the Area for the purposes of consultation and collaboration, where this is required in accordance with article 165, paragraph 2 (c), of the United Nations Convention on the Law of the Sea.

Rule 56 (54)

Participation by observers

[Observers referred to in rule 93 of the rules of procedure of the Assembly may designate representatives to participate, without right to vote, in the deliberations of the Commission, upon the invitation of the Chairman, on questions affecting them or within the scope of their activities.]

X. LANGUAGES

Rule 57* (55*)

Languages of the Commission

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Commission.

Rule 58* (56*)

Interpretation

Speeches made in any of the six languages of the Commission shall be interpreted into the other five languages.

Rule 59* (57*)

Other languages

Any member may make a speech in a language other than the languages of the Commission. In this case, he shall himself provide for interpretation into one of the languages of the Commission. Interpretation into the other languages of the Commission by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 60* (58*)

Recommendations, proposals and reports

All recommendations, proposals and reports of the Commission shall be published in the languages of the Commission.

XI. RECORDS

Rule 61* (59*)

Records and sound recordings of meetings

1. Summary records of public meetings of the Commission shall be kept in the languages of the Commission. As a general rule they shall be circulated as soon as possible, simultaneously in all languages of the Commission, to all members of the Commission and all members of the Authority, who shall inform the Secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

2. The Secretariat shall make sound recordings of the meetings of the Commission when they so decide.

XII. PRIVATE AND PUBLIC MEETINGS

Rule 62* (60* and 61*)

Private and public meetings

1. The meetings of the Commission shall be held in private unless it decides otherwise.

2. At the close of each private meeting of the Commission, the Chairman shall issue a communiqué through the Secretary-General.

3. All decisions of the Commission taken at a private meeting shall be announced at an early public meeting of the Commission.